

Anne Argiroff

Attorney at Law

Anne Argiroff, PC
28819 Franklin Rd.
Southfield, MI 48034
(248) 615-4493

Fax: (248) 359-9937

May 1, 2003

Michigan Supreme Court
Clerk
Lansing, MI

Re: Proposal Concerning MCR 3.210(C) (5)

I support the additions suggested by Judith Curtis in her 5-1-03 letter concerning MCR 3.210(C)(5). Molloy reinforces both the importance of reliability of evidence in custody cases and that our trial system is carefully designed to protect due process rights and avoid trial by secret evidence. Children have a right to have custody, a fundamental part of their lives, determined by competent and accurate evidence.

Transcripts of in camera interviews of children should be mandatory, but remain sealed unless an appeal is filed. Upon the filing of an appeal, the transcript would be available to counsel. Redacting a child's preference is a good way of balancing due process rights while protecting a child in expressing his preference.

A judge other than the trier of fact could act as the "redacting" judge, thus avoiding an appearance of impropriety. This would not be an overly time-consuming process (not many appeals involve the issue of in camera review). The redacting judge could be a rotating position.

The procedures under this court rule should comply with the letter and spirit of Molloy as affirmed by this Court, protecting children while reinforcing due process (which in itself protects all involved in the trial process, perhaps especially children).

Anne Argiroff